

Notice of Allowability

Application No.

09/712,338

Examiner

Sheridan L. Swope

Applicant(s)

BLINKOVSKY ET AL.

Art Unit

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment of October 25, 2004.
2. ☒ The allowed claim(s) is/are 30-37 and 39-45.
3. ☒ The drawings filed on 13 November 2000; 18 May 2004 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☒ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

Applicant's response, on October 25, 2004 to the Action on the Merits of this case mailed August 19, 2004, is acknowledged. It is acknowledged that applicants have cancelled Claims 38, 50, 51, 53, and 54 and amended Claims 30, 31, 39, 41, 52, and 55. Claims 30-37, 39-45, 52, and 55 are pending and are hereby reconsidered.

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Specification

On page 1, lines 1-2, replace –U.S. patent no. 6,187,578 filed on October 3, 1997– with –U.S. Application 08/943714, filed on October 3, 1997, now U.S. patent no. 6,187,578–.

Replace the sentence on page 11, line 9-11 with: –In another more preferred embodiment, the nucleic acid sequence is the sequence contained in plasmid pEJG12, which comprises SEQ ID NO: 1, and is contained in *Escherichia coli* NRRL B-21616.–

Claims

Cancel Claims 52 and 55, which are identical to Claims 31 and 36, respectively.

In Claim 36, line 1, replace –80%– with –95%–.

In Claim 37, line 1, replace –has– with –comprises–.

In Claim 41, line 1, replace –claim 30– with –claim 37–.

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Authorization for this examiner's amendment was given in a telephone interview with Robert Starnes on December 8, 2004.

Allowable Subject Matter

Claims 30-37 and 39-45 are allowed.

The following is an examiner's statement of reasons for allowance.

All elected Claims, 30-37 and 39-45, are limited to isolated nucleic acid molecules, vectors, host cells, and methods of making the encoded protein of the nucleotide sequence of SEQ ID NO: 1 or encoding the amino acid sequence of SEQ ID NO: 2. The utility of said polynucleotides, as encoding a polypeptide having carboxypeptidase activity, is credible based on the following. A polypeptide having carboxypeptidase activity was purified and peptide fragments from the polypeptide amino acid sequenced (Examples 1 & 2). Based on the sequence of said peptides, a polynucleotide encoding a polypeptide with the same molecular weight as the carboxypeptidase was cloned (Examples 6-8). The sequence of the polypeptide, deduced by electronically translating the polynucleotide, comprised the peptide fragments originally generated from the isolated carboxypeptidase (Example 8). Therefore, the utility of the polynucleotide SEQ ID NO: 1, as encoding a carboxypeptidase, is credible.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheridan L. Swope whose telephone number is 571-272-0943. The examiner can normally be reached on M-F; 9:30-7 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapura Achutamurthy can be reached on 571-272-0928. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1600.

Sheridan Lee Swope, Ph.D.


REBECCA E. PROUTY
PRIMARY EXAMINER
GROUP 1800-
1600